Fred.k J. Fulton, B.A. K.C.
Barrister, Solicitor, Etc.

Please Return

Kamloops, B.C. Nov. 28th. 1910

J. A. Goldie, Esq.,
The Rainbow Ranche, Limited,
Okanagan Centre, B. C.

Dear Sir,

I am in receipt of yours of the 23rd. inst. enclosing water agreements between Maddock Bros. and J A. McAllister, and also copy of agreement of the Okanagan Centre Irrigation and Power Company, Limited , and letter from the Okanagan Valley Land Company, Limited, which I return herewith.

After perusing same again I can come to no other conclusion but that you would have good right of action against whatever Company is operating the system formerly belonging to Maddock Brothers. I cannot see how the mortgage given by Maddock Bros. can possibly enter into the question. The point is this. Maddock Bros.. and McAllister enter into an agreement whereby McAllister granted the right of way for the pipe line to Maddock Bros. irrigation system and in consideration thereof, Maddock Bros. agreed to supply water. This agreement on the face of it is binding on the assigns of both parties therefore whatever Company is now operating the irrigation system put in by Maddock Bros., must be doing it by virtue of title derived from Maddock Bros., and they could only take it

subject to the rights and agreement made in connection with same.

If they are operating the irrigation system, without being able to show the chain of title from Maddock Bros. to themselves, they are doing same without any legal right so far as the right of way across your land is concerned. I think there can be no doubt that they have seen to it that they have acquired whatever rights Maddock Bros. had, and if they did, in my opinion, they have made themselves liable to the agreement with McAllister.

I think beyond any question an action would lie to compel them to comply with the agreement, or in the alternative to restrain them from using the right of way which was grantedby the agreement.

Of course, if you can make a reasonable settlement with them, it would be advisable to do so, but if they are entirely unreasonable, it seems to me you will have every chance of succeeding in an action.

Yours truly,

Ino J. Fulton